

REMARKS

This is in response to the Office Action dated April 11, 2003. Claims 29-62 are pending.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's allowance of claims 29-32 and 46-49. Applicant further notes with appreciation the Examiner's indication that claims 35-39 and 52-56 contain allowable subject matter.

All Rejections Based on Kobayashi Must be Withdrawn

Certified copies of the priority documents (in English) have been filed herewith in order to perfect all aspects of the priority claims of the instant application. Thus, the Kobayashi reference (US 6,172,782), filed May 15, 1998 which is *after* the filing dates of the two enclosed priority documents of the instant application, is not prior art. Since Kobayashi is not prior art to the instant application, all rejections based on this reference must be withdrawn.

Claims 33, 34, 40, 41, 42, 43, 44, 45, 50, 51, 57, 58, 59, 60, 61 and 62 stand rejected under Section 103(a) over Kobayashi in view of Labiche (and Takehanna for some claims). Since Kobayashi is not prior art as explained above, all of these Section 103(a) rejections must be withdrawn.

Thus, all claims other than claims 33 and 50 (see discussion below) are clearly in condition for allowance.

Claims 33 and 50

As explained above, only claims 33 and 50 stand rejected over prior art. These rejections are respectfully traversed as follows.

Claim 33 stands rejected under 35 U.S.C. Section 103(a) as being allegedly unpatentable over Labiche (US 5,241,610). This Section 103(a) rejection is incorrect.

Claim 33 requires " An optical WDM network comprising at least two nodes interconnected by a bidirectional optical link spare optical transmitters, one spare optical transmitter arranged together with an ordinary optical transmitter in a pair, the spare optical transmitter and the ordinary optical transmitter of a pair receiving the same electrical signals and converting the received electrical signals to optical signals and the spare optical transmitter arranged to issue the optical signals to the other node, if the ordinary optical transmitter fails. The cited art fails to disclose or suggest the aforesaid underlined aspects of claim 33.

First, Labiche fails to disclose or suggest a WDM network. Referring to Fig. 4A of Labiche, it can be seen that Labiche's system appears to be a single wavelength system – otherwise, the BU LASER would have to be tunable. Thus, an initial deficiency with Labiche is that it does not disclose or suggest the claimed WDM network

Second, Labiche only discloses a *single* alleged spare transmitter – not plural as required by claim 33. Hence, Labiche's single spare transmitter cannot receive the "same electrical signals" as the ordinary lasers as required by claim 33. The reference is also deficient in this respect.

In view of the above, it is respectfully submitted that the Section 103 rejection of claim 33 over Labiche should be withdrawn.

Claim 50 defines over Labiche for similar reasons.

Conclusion

For at least the foregoing reasons, it is respectfully requested that all rejections be withdrawn. All claims are in condition for allowance. If any minor matter remains to be resolved, the Examiner is invited to telephone the undersigned with regard to the same.

Respectfully submitted,

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